

REMARKS

Claims 1-7, 9-21, 23, 24, 26, and 27 are all the claims pending in the application. By this Amendment, Applicant editorially amends claims 1, 2, 5, 9, 15, 16, 18-21, 23, and 26. The amendments to claims 1, 2, 5, 9, 15, 16, 18-21, 23, and 26 were made for reasons of precision of language and consistency. Claim 1 and 2 are also amended to further clarify the invention.

I. Summary of the Office Action

The Examiner now objects to claims 5, 15, 18-20, 21, 23, and 26 because of minor informalities. The Examiner also rejects claims 1-7, 9, 15, 16, 18-21, 23, 24, 26, and 27 under 35 U.S.C. § 112, second paragraph and claims 1-7, 9, 16, 23, 24, and 27 under 35 U.S.C. § 103(a). Claims 10-15, 17-19, 20, 21, and 26 contain allowable subject matter.

II. Claim Objections

Claims 5, 15, 18-20, 21, 23, and 26 are objected to because of minor informalities. Applicant has revised the claims, and respectfully submits that the claims as now presented no longer include the potential informality mentioned by the Examiner. Applicant therefore respectfully requests the Examiner to withdraw the objections to the claims.

III. Claim Rejections under 35 U.S.C. § 112, second paragraph

Claims 1-7, 9, 15, 16, 18-21, 23, 24, 26, and 27 are rejected under 35 U.S.C. § 112, second paragraph, for minor informalities in claims 1, 2, 15, 21, and 26. Applicant respectfully thanks the Examiner for pointing out, with particularity, the aspects of the claims thought to be indefinite. Applicant respectfully requests the Examiner to withdraw this rejection in view of the self-explanatory claim amendments being made herein.

IV. Prior Art Rejections

Claims 1, 2, 4, 6, 7, 9, 16, 23, 24, and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,367,523 to Chang et al. (hereinafter “Chang”) in view of U.S. Patent No. 6,891,851 to Demakakos (hereinafter “Demakakos”) and further in view of U.S. Patent No. 6,657,961 to Lauffenburger et al. (hereinafter “Lauffenburger”). Applicant respectfully traverses these grounds of rejections at least in view of the following exemplary comments.

The Examiner acknowledges that Chang and Demakakos do not disclose or suggest the data sink initiating the report, as set forth in the independent claims 1 and 2 (*see* pages 6-7 of the Office Action). The Examiner, however, alleges that Lauffenburger cures the above-identified deficient disclosures of Chang and Demakakos. In particular, the Examiner alleges that the claimed data sink and the claimed intermediate nodes can be part of the ABR network in view of the breadth of the claims (*see* page 11 of the Office Action).

Applicant respectfully submits that independent claim 1 recites:

A network status reporting method for reporting in a communications network a network status information to a data source with an adaptive transmission rate in order to enable said data source to adapt said transmission rate based on said network status information, said communications network further comprising at least one intermediate network node, and a data sink, wherein only said data sink reports to said data source on said network status information of said communications network in a neighbourhood around the data sink, wherein said report of the data sink is forwarded via the at least one intermediate network node, wherein no intermediate network node reports to said data source on a network status information of said communications network in a neighbourhood around the at least one intermediate network node, wherein said communications network is a heterogeneous network comprising at least two

different networks at least one of which comprises the data sink and at least one intermediate node from the at least one intermediate network node and is not configured to perform available bit rate control technique, and wherein the data sink initiates said reporting of the network status information of said communications network in the neighbourhood around the data sink to said data.

Independent claim 2 recites *inter alia*: “wherein said data source adapts said transmission rate on the basis of network status information, and wherein only said data sink is able to report said network status information of said communications network in a neighbourhood of the data sink to said data source, the report of the data sink is forwarded to said data source via the at least one intermediate node and no intermediate node is able to report a network status information of said communications network in a neighbourhood around the at least one intermediate node to said data source, wherein said communications network is a heterogeneous network comprising at least two different networks, wherein at least one of said at least two different networks comprises the data sink and at least one intermediate node from the at least one intermediate network node and is not configured to perform available bit rate control technique, and wherein the data sink initiates said reporting of the network status information of said communications network in the neighbourhood of the data sink to said data source without a request from said data source.”

Lauffenburger is no different from the conventional techniques in that it discloses a system and method for controlling data flow in an available bit rate asynchronous transfer mode ATM network using resource management (RM) cells. Although Lauffenburger discloses unsolicited RM cells, these cells are part of available bit rate (ABR) technique. In other words, Lauffenburger discloses unsolicited cells in the ABR ATM network (*see* Abstract; col. 2, lines

19 to 34 and lines 51 to 55; col. 4, lines 49 to 58). In short, Lauffenburger fails to disclose or suggest having unsolicited RM cells in a heterogeneous network environment.

Moreover, the proposed combination is unworkable. If at least one network is not configured to perform available bit rate control technique as set forth in claims 1 and 2 *e.g.*, the frame relay network, then Lauffenburger's unsolicited RM cells cannot be used at least because they are designed and are used in the ABR ATM environment. In short, the combination proposed by the Examiner is unworkable because Lauffenburger's unsolicited RM cells cannot be included in a network that does not support ABR.

Therefore, for at least these exemplary reasons, Applicant respectfully submits that claims 1 and 2 are patentable over Chang, Demakakos in view of Lauffenburger, which lack having the data sink initiate the report in a network that does not support ABR technique. Accordingly, it is appropriate and necessary for the Examiner to withdraw this rejection of claims 1 and 2 and their dependent claims 4, 6, 7, 9, 16, 23, 24, and 27.

Claims 3 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang in view of Demakakos and Lauffenburger and further in view of U.S. Patent No. 6,963,538 to Giroux et al. (hereinafter "Giroux"). This rejections is traversed at least in view of the following exemplary comments. Claims 3 and 5 depend on claim 2. It was already demonstrated that Chang in view of Demakakos and Lauffenburger do not disclose or suggest the unique features of claim 2. Giroux is only cited for its disclosure of the data sink being a line termination and as such does not cure the above-identified deficiencies of Chang, Demakakos, and Lauffenburger. Accordingly, claim 2 is patentable over the prior art of record. Claims 3 and 5 are patentable at least by virtue of their dependency on claim 2.

V. Allowable Subject Matter

Claims 10-15, 17-21 and 26 are allowed.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Nataliya Dvorson
Registration No. 66,616

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: October 24, 2008